

AMENDED IN SENATE AUGUST 20, 2002

AMENDED IN SENATE AUGUST 12, 2002

AMENDED IN SENATE JUNE 18, 2002

AMENDED IN ASSEMBLY MAY 2, 2002

AMENDED IN ASSEMBLY APRIL 30, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 2473

Introduced by Assembly Member Simitian

February 21, 2002

An act to add Section 1749.6 to the Civil Code, relating to gift certificates.

LEGISLATIVE COUNSEL'S DIGEST

AB 2473, as amended, Simitian. Gift certificates: bankruptcy.

Existing law generally provides that it is unlawful for any person or entity to sell a gift certificate to a purchaser containing an expiration date, and provides that a gift certificate sold without an expiration date is valid until redeemed or replaced.

This bill would provide that a gift certificate constitutes value held in trust by the issuer of the gift certificate on behalf of the beneficiary of the gift certificate, and that the value represented by the gift certificate belongs to the beneficiary, or his or her legal representative to the extent provided by law, and not to the issuer. The bill would require the issuer of a gift certificate who is in bankruptcy to continue to honor a gift certificate issued prior to the date of the bankruptcy

filing. The bill would prohibit the terms of a gift certificate from making its redemption or other use invalid in the event of a bankruptcy. The bill would specify that it does not alter the terms of a gift certificate or require an issuer to perform specified acts.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1749.6 is added to the Civil Code, to
2 read:

3 1749.6. (a) A gift certificate constitutes value held in trust by
4 the issuer of the gift certificate on behalf of the beneficiary of the
5 gift certificate. The value represented by the gift certificate
6 belongs to the beneficiary, or to the legal representative of the
7 beneficiary to the extent provided by law, and not to the issuer.

8 (b) An issuer of a gift certificate who is in bankruptcy shall
9 continue to honor a gift certificate issued prior to the date of the
10 bankruptcy filing on the grounds that the value of the gift
11 certificate constitutes trust property of the beneficiary.

12 (c) (1) This section does not alter the terms of a gift certificate.
13 The terms of a gift certificate may not make its redemption or other
14 use invalid in the event of a bankruptcy.

15 (2) This section does not require, unless otherwise required by
16 law, the issuer of a gift certificate to:

17 (A) Redeem a gift certificate for cash.

18 (B) Replace a gift certificate that has been lost or stolen.

19 (C) Maintain a separate ~~fiduciary~~ account for the funds used to
20 purchase the gift certificate.

21 (d) (1) This section does not create an interest in favor of the
22 beneficiary of the gift certificate in any specific property of the
23 issuer.

24 (2) This section does not create a fiduciary or quasi-fiduciary
25 relationship between the beneficiary of the gift certificates and the
26 issuer, unless otherwise provided by law.

27 (3) The issuer of a gift certificate has no obligation to pay
28 interest on the value of the gift certificate held in trust under this
29 section, unless otherwise provided by law.

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